

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN MYRICK,

Defendant.

CR 14-69-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant John Myrick (Myrick) has been accused of violating the conditions of his supervised release. Myrick admitted all of the alleged violations. Myrick's supervised release should be revoked. Myrick should be placed in custody for 7 months, with no supervised release to follow.

II. Status

Myrick pleaded guilty to Robbery on September 24, 2014. (Doc. 21). The Court sentenced Myrick to 46 months of custody, followed by 3 years of supervised release. (Doc. 29). Myrick's current term of supervised release began on February 28, 2020. (Doc. 77 at 2).

Petition

The United States Probation Office filed a Petition on April 20, 2021, requesting that the Court revoke Myrick's supervised release. (Doc. 77). The Petition alleged that Myrick had violated the conditions of his supervised release: 1) by failing to report for substance abuse testing; 2) by failing to report for substance abuse treatment; and 3) by using methamphetamine.

Initial appearance

Myrick appeared before the undersigned for his initial appearance on April 29, 2021. Myrick was represented by counsel. Myrick stated that he had read the petition and that he understood the allegations. Myrick waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on April 29, 2021. Myrick admitted that he had violated the conditions of his supervised release: 1) by failing to report for substance abuse testing; 2) by failing to report for substance abuse treatment; and 3) by using methamphetamine. The violations are serious and warrant revocation of Myrick's supervised release.

Myrick's violations are Grade C violations. Myrick's criminal history

category is I. Myrick's underlying offense is a Class C felony. Myrick could be incarcerated for up to 24 months. Myrick could be ordered to remain on supervised release for up to 18 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 3 to 9 months.

III. Analysis

Myrick's supervised release should be revoked. Myrick should be incarcerated for 7 months, with no supervised release to follow. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Myrick that the above sentence would be recommended to United States District Judge Brian Morris. The Court also informed Myrick of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Myrick that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose.

The Court **FINDS:**

That John Myrick violated the conditions of his supervised release: by failing to report for substance abuse testing; by failing to report for substance abuse treatment; and by using methamphetamine.

The Court RECOMMENDS:

That the District Court revoke Myrick's supervised release and commit Myrick to the custody of the United States Bureau of Prisons for 7 months, with no supervised release to follow.

NOTICE OF RIGHT TO OBJECT TO FINDINGS AND RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 30th day of April, 2021.



John Johnston
United States Magistrate Judge